

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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BRADLEY CABRERA *and* JOSE MOTA, *on behalf of
themselves and those similarly situated,*

16 CV 9107

Plaintiffs,

v.

SILVERLINING HOLDING CORP. *and* DANIEL
POTTER, *individually,*

**DECLARATION OF
EDGAR M. RIVERA
IN SUPPORT OF
PLAINTIFFS' REQUEST TO
ENTER DEFAULT**

Defendants.
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I, Edgar M. Rivera, an attorney duly admitted to practice in the State of New York and in this Court, hereby declare as follows:

1. I am an attorney at The Harman Firm, LLP, counsel of record for Plaintiffs Bradley Cabrera and Jose Mota in this action brought under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201–219, and the New York State Labor Law ("NYLL"), N.Y. Lab. Law §§ 1–1200.

2. I submit this Declaration in support of Plaintiffs' Request to Enter Default pursuant to FED. R. CIV. P. 55(A) and L. CIV. R. 55.1 against Defendants SilverLining Holding Corp. and Daniel Potter for failing to respond to the Complaint or otherwise appear in this action.

3. Plaintiffs filed their Complaint on November 22, 2016. *See* Docket Entry No. 1.

4. A Summons and the Complaint were properly served on Defendants on November 29, 2016, pursuant to FED. R. CIV. P. 4(e)(1), New York C.P.L.R. § 311(a)(1), and New York C.P.L.R. 308(1). *See* Docket Entry No. 14.

5. Defendants have not answered, appeared, pleaded, or otherwise moved with respect to the Complaint, and the time for Defendants to answer or otherwise move has not been

extended. The time for Defendants to answer or otherwise move with respect to the Complaint herein expired on December 20, 2016.

6. Defendants are indebted to Plaintiffs for failing to pay them the minimum wage, the overtime wage, straight time wage, and spread of hours. Defendants also failed to provide notice and keep records within the meaning of NYLL § 195. Plaintiffs are entitled to compensatory damages, including, but not limited to, back pay, liquidated damages, punitive damages, costs, interest, attorneys' fees, and any other damages and other compensation that the Court deems appropriate.

7. The parties against whom this Entry of Default is requested are not infants or incompetent. Defendants are not presently in the military service of the United States, as appears from facts in this litigation.

WHEREFORE, Plaintiffs Bradley Cabrera and Jose Mota request that the default of Defendants be entered and a certificate of default issued.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief, that the amount claimed is justly due to Plaintiffs, and that no part thereof has been paid.

Dated: New York, New York
April 28, 2017

By: s/ Edgar M. Rivera
Walker G. Harman, Jr. [WH-8044]
Edgar M. Rivera [ER-1378]
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